

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.83745 of 2019

Arising Out of PS. Case No.-14 Year-2012 Thana- PIPRIYA District- Lakhisarai

HARE RAM SINGH @ HARE RAM SHARMA Son of Bishnudeo Singh @ Bipat Sharma, Resident of Village - Ramchandrapur, P.S.- Pipariya, Distt – Lakhisarai..... Petitioner

Versus

1. THE STATE OF BIHAR
2. Rajendra Singh Son of Late Siya Ram Singh Resident of Village - Ramchandrapur, P.S.- Pipariya, Distt - Lakhisarai.
3. Sita Ram Singh Son of Late Siya Ram Singh Resident of Village - Ramchandrapur, P.S.- Pipariya, Distt - Lakhisarai.
4. Manoj Singh Son of Shambhu Singh Resident of Village - Ramchandrapur, P.S.- Pipariya, Distt - Lakhisarai.
5. Amit Singh Son of Shambhu Singh Resident of Village - Ramchandrapur, P.S.- Pipariya, Distt - Lakhisarai.
6. Raushan Singh Son of Rajendra Singh Resident of Village - Ramchandrapur, P.S.- Pipariya, Distt - Lakhisarai.
7. Ranjan Singh Son of Rajendra Singh Resident of Village - Ramchandrapur, P.S.- Pipariya, Distt - Lakhisarai.
8. Kaushal Singh Son of Rajendra Singh Resident of Village - Ramchandrapur, P.S.- Pipariya, Distt - Lakhisarai.
9. Siya Saran Singh Son of Late Baran Singh Resident of Village - Ramchandrapur, P.S.- Pipariya, Distt - Lakhisarai.

... .. Opposite Parties

Appearance :

For the Petitioner/s	:	Mr. Ram VinayPd. Singh @ Sanjay, Advocate
For the Opposite Party/s	:	Mr.
For O. P. No. 2 to 9	:	Mrs. Soni Srivastava, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 06-01-2020 Heard learned counsel for the petitioner. Though no one appeared on behalf of the State, learned counsel for opposite parties no. 2 to 9 is present.

It appears that this case has been wrongly listed under the heading 'For orders on Office Note' though the matter was for listing under the heading 'For Admission'. With the consent



of the parties, the matter has been taken up for consideration on its own merit.

The petitioner in this case is aggrieved by and dissatisfied with the order dated 15.11.2019 passed by learned Fast Track 2nd, Lakhisarai in Sessions Trial No. 65 of 2013 arising out of Pipriya P.S. Case No. 14 of 2012 by which the learned trial court has refused to allow witness namely, Rahul Kumar to be examined on behalf of the prosecution at the stage when the case was fixed for statement of the accused under Section 313 Code of Criminal Procedure (in short 'Cr.P.C.').

Learned counsel for the petitioner submits that the Medical Officer who had prepared the injury report and discharge certificate went in collusion with the defence and despite issuance of summons and warrant of arrest he did not appear. It is the stand of the petitioner that the witness Rahul Kumar was present at the time of treatment of the injured and in his presence the Doctor has prepared the injury report and the discharge certificate. He is a material witness and may be allowed to prove the injury report.

Learned counsel for the opposite parties no. 2 to 9 submits that it was the duty of the prosecution to produce the Medical Officer in course of evidence. So far as the witness



Rahul Kumar who has been sought to be produced is concerned, he was never examined and investigated by the Investigating Officer and his name has not transpired in any of the statements of the prosecution witnesses as a person present at the time of treatment of the injured. It is the submission of learned counsel for the opposite parties no. 2 to 9 that this witness is being introduced at the fag end when the case is fixed for statement under Section 313 Cr.P.C., he is not a chargesheet witness and hence, the learned trial court has rightly taken a view that in exercise of its power under Section 311 Cr.P.C. the court did not find said Rahul Kumar as a material witness and hence refused to allow him to be examined.

Having heard learned counsel for the parties and upon perusal of the records, this Court finds from the submissions of the parties and also upon perusal of the records that it is not in dispute that said Rahul Kumar was never investigated by the Investigating Officer, he is not a chargesheet witness and it is not the stand of the petitioner that the name of Rahul Kumar has come in the statement of any of the prosecution witnesses. In the opinion of this Court, therefore, the impugned order does not suffer from any illegality or infirmity and this Court need not exercise its inherent power to interfere with the impugned order.



This application has thus, no merit and it is dismissed
accordingly.

(Rajeev Ranjan Prasad, J)

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